

House Study Bill 280

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON SHOMSHOR)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act modifying provisions relating to the regulation of delayed
2 deposit service businesses, making penalties applicable, and
3 providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2690YC 83
6 rn/sc/8

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1 1 Section 1. Section 533D.3, subsection 3, paragraph a, Code
1 2 2009, is amended to read as follows:
1 3 a. An application fee of one hundred ~~twenty~~=five dollars.
1 4 Sec. 2. Section 533D.9, subsection 2, Code 2009, is
1 5 amended by adding the following new paragraph:
1 6 NEW PARAGRAPH. e. That the licensee cannot initiate debt
1 7 collection procedures, civil court proceedings, or arbitration
1 8 to collect an unpaid check unless the licensee has provided
1 9 the maker of the check the opportunity to repay the obligation
1 10 without any additional charges, other than the penalty
1 11 provided in paragraph "d" of this subsection, in biweekly
1 12 payments of not more than ten percent of the face of the check
1 13 until the debt is paid in full. Additionally, that during
1 14 this repayment period the licensee may not transfer or sell
1 15 the debt owing on the unpaid check and may not report the
1 16 account or the maker of the check to any credit reporting
1 17 agency. Further, that the maker of the check's failure to
1 18 make a biweekly payment under this paragraph shall place the
1 19 loan in default and the licensee may, after proper notice,
1 20 exercise rights against the maker under the law.
1 21 Sec. 3. Section 533D.10, subsection 1, Code 2009, is
1 22 amended to read as follows:
1 23 1. A licensee shall not do any of the following:
1 24 a. Hold from any one maker more than two checks at any one
1 25 time.
1 26 b. Hold from any one maker a check or checks in an
1 27 aggregate face amount of more than five hundred dollars at any
1 28 one time.
1 29 c. Hold or agree to hold a check for ~~more~~ less than
1 30 ~~thirty-one~~ fourteen days.
1 31 d. Require the maker to receive payment by a method which
1 32 causes the maker to pay additional or further fees and charges
1 33 to the licensee or another person.
1 34 e. Repay, refinance, or otherwise consolidate a postdated
1 35 check transaction with the proceeds of another postdated check
2 1 transaction made by the same licensee. A licensee may not
2 2 enter into another transaction with the maker of a check if
2 3 the licensee presently has a transaction outstanding with the
2 4 maker or if the maker had a previous transaction with the
2 5 licensee within two days of the new transaction, unless the
2 6 licensee has provided the following notice both verbally and
2 7 in writing, and the maker has acknowledged receipt of the
2 8 notice with a signature and date:
2 9 Notice to Borrower
2 10 1. The licensee may not repay, refinance, or otherwise
2 11 consolidate a postdated check transaction with the proceeds of
2 12 another postdated check transaction made by the same licensee.
2 13 2. While a licensee may charge a penalty if a check is not
2 14 negotiable on the date agreed upon, the penalty shall not
2 15 exceed fifteen dollars. This penalty shall only be collected
2 16 by the licensee once on a check no matter how long that check
2 17 remains unpaid. This penalty is the only additional charge a

2 18 lender may charge you (the borrower) when a check is not
2 19 negotiable on the date agreed upon.
2 20 3. If your check is not negotiable on the date agreed
2 21 upon, the licensee must provide you (the borrower) the
2 22 opportunity to repay the obligation without any additional
2 23 charges, other than the penalty described above, in biweekly
2 24 payments of not more than ten percent of the face of the check
2 25 until the debt is paid in full.

2 26 By signing and dating this notice, you acknowledge the
2 27 statements above, but yet still desire to obtain another loan
2 28 with the licensee.

2 29 Borrower(s) signature: _____ Date: _____
2 30 Borrower(s) signature: _____ Date: _____

2 31 f. Receive any other charges or fees in addition to the
2 32 fees listed in section 533D.9, subsections 1 and 2.

2 33 g. Initiate debt collection procedures, civil court
2 34 proceedings, or civil or private arbitration proceedings to
2 35 collect an unpaid check unless the licensee has provided the
3 1 maker the opportunity to repay the obligation without any
3 2 additional charges, other than the penalty provided in section
3 3 533D.9, paragraph "d", in biweekly payments of not more than
3 4 ten percent of the face of the check until the debt is paid in
3 5 full. During this repayment period the licensee may not
3 6 transfer or sell the debt owing on the unpaid check and may
3 7 not report the account or the maker of the check to any credit
3 8 reporting agency. The failure of the maker of the check to
3 9 make a biweekly payment as required shall place the loan in
3 10 default and the licensee may, after proper notice, exercise
3 11 rights against the maker under the law.

3 12 Sec. 4. Section 533D.10, subsection 1, Code 2009, is
3 13 amended by adding the following new paragraph:
3 14 **NEW PARAGRAPH.** h. Enter into a delayed deposit service
3 15 transaction which will cause the maker of the check, when all
3 16 other delayed deposit service transactions entered into with
3 17 any licensee involving the maker of the check are accounted
3 18 for, and when the term of the transaction is aggregated with
3 19 the other transactions, to be indebted for a period exceeding
3 20 ninety days during the preceding twelve-month period. For
3 21 purposes of this paragraph, if the maker of the check has
3 22 entered into more than one delayed deposit service transaction
3 23 with the same or another licensee, and the periods during
3 24 which the transactions are outstanding overlap, each day of
3 25 each respective transaction shall be counted in satisfying the
3 26 ninety-day restriction. For purposes of this paragraph, if a
3 27 maker of a check is making biweekly payments during a
3 28 repayment period as provided in section 533D.9, subsection 2,
3 29 paragraph "e", the repayment period shall not be counted in
3 30 satisfying the ninety-day restriction.

3 31 Sec. 5. **NEW SECTION.** 533D.10A ELECTRONIC DATABASE.
3 32 1. Each licensee shall, by October 1, 2009, subscribe to,
3 33 report to, and utilize an electronic database tracking
3 34 service, to be developed or selected pursuant to rules adopted
3 35 by the banking division of the department of commerce, that
4 1 permits the licensee to determine whether a maker of a check
4 2 has an outstanding unpaid check or debit authorization that
4 3 is, or reasonably appears to be, connected to a delayed
4 4 deposit service transaction. Each licensee shall require a
4 5 maker of a check to sign a written declaration confirming
4 6 that, pursuant to section 533D.10, subsection 1, paragraph
4 7 "h", the maker of the check is eligible to enter into a
4 8 delayed deposit service transaction.

4 9 2. a. Records of a licensee and the electronic database
4 10 tracking service shall be subject to review and examination by
4 11 the division to determine whether the licensee is in
4 12 compliance with this section and other applicable provisions
4 13 of this chapter.

4 14 b. Information, records, and documents obtained in the
4 15 performance of the review and examination, including the
4 16 amount of any outstanding unpaid check or debit authorization
4 17 and the identity of the maker of the check, are confidential
4 18 and shall not be disclosed by the division and are not subject
4 19 to subpoena. Such information, records, and documents do not
4 20 constitute a public record under chapter 22. The
4 21 superintendent may disclose such information to
4 22 representatives of other state or federal regulatory
4 23 authorities and may release summary complaint information so
4 24 long as the information does not specifically identify the
4 25 complainant. The superintendent may also provide this
4 26 information to the attorney general for purposes of enforcing
4 27 this chapter.

4 28 Sec. 6. **EFFECTIVE DATE.** The section of this Act enacting

4 29 section 533D.10, subsection 1, paragraph "h", takes effect
4 30 October 1, 2009.

4 31 EXPLANATION

4 32 This bill relates to specified aspects of the regulation of
4 33 delayed deposit service businesses.

4 34 The bill increases the amount which is required to be
4 35 submitted by a person applying to operate a delayed deposit
5 1 service business from \$100 to \$125.

5 2 The bill provides that a licensee must disclose to the
5 3 maker of a check that the licensee cannot initiate debt
5 4 collection procedures, civil court proceedings, or arbitration
5 5 to collect an unpaid check unless the licensee has provided
5 6 the maker of a check the opportunity to repay the obligation
5 7 without any charges, other than the current \$15 penalty, in
5 8 biweekly payments of not more than 10 percent of the face of
5 9 the check until the debt is paid in full. The bill adds that
5 10 during this repayment period the licensee cannot sell or
5 11 transfer the debt owing on the unpaid check or report the
5 12 account or the maker of the check to a credit reporting
5 13 agency. If the maker of the check fails to honor the
5 14 repayment obligation, the bill provides that the loan shall be
5 15 placed in default. The bill makes the failure to conform with
5 16 these provisions a prohibited act on the part of the licensee,
5 17 which could subject the licensee to disciplinary action as
5 18 specified in Code section 533D.12.

5 19 Additionally, the bill changes a current provision that
5 20 prohibits a licensee from holding or agreeing to hold a check
5 21 for more than 31 days to a modified provision that the
5 22 licensee cannot hold or agree to hold a check for less than 14
5 23 days. The bill also prohibits a licensee from entering into
5 24 another transaction with the maker of a check who already has
5 25 a transaction outstanding with the licensee or from entering
5 26 into a new transaction within two days of the conclusion of
5 27 the previous transaction, unless the maker acknowledges in
5 28 writing specified restrictions relating to successive
5 29 transactions, applicable penalties, and the opportunity to
5 30 repay the obligation in installments in the event the check is
5 31 not negotiable.

5 32 The bill also prohibits a licensee from entering into a
5 33 transaction that results in the maker of the check being
5 34 indebted to the licensee, or when aggregated with other
5 35 delayed deposit service business licensees, for longer than a
6 1 90-day period during the preceding 12 months. This section of
6 2 the bill takes effect October 1, 2009.

6 3 The bill requires a licensee, by October 1, 2009, to
6 4 subscribe to, report to, and utilize an electronic database
6 5 tracking service developed or selected by the banking division
6 6 of the department of commerce to monitor the number of
6 7 transactions entered into by a maker of a check for purposes
6 8 of complying with this provision. The bill states that
6 9 licensee records and the database shall be subject to review
6 10 and examination by the division, and provides that
6 11 information, records, and documents obtained by the division
6 12 in the performance of such a review or examination shall be
6 13 considered confidential.

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